



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Release Number: **201001023**  
Release Date: 1/8/10  
Date: 10/14/2009  
UIL Code: 501.32-00  
501.32-01, 501.33-00

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:  
1120

Tax Years:  
All

Dear

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Because you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

In accordance with Code section 6104(c), we will notify the appropriate State officials of our determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Rob Choi  
Director, Exempt Organizations  
Rulings & Agreements

Enclosure  
Notice 437  
Redacted Proposed Adverse Determination Letter  
Redacted Final Adverse Determination Letter



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Date: 7/15/2009

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

A =  
B = a county  
C = a state  
D = a date  
E = a religion  
F = a country  
G = another state

UIL Code: 501.32-00  
501.32-01  
501.33-00

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

ISSUE:

Does your primary purpose and activity of paying death benefits for your members prohibit exemption under section 501(c)(3)? Yes, for the reasons described below.

FACTS:

The information submitted discloses that you were incorporated in the County of B in the State of C on date D.

Your purposes as set forth in your Articles of Incorporation are to create, form and establish an organization to help offset the cost of burial and funeral expenses for members of the E religious community.

According to information submitted with your application, your purpose is to provide specific financial assistance to your members upon their death in order to ameliorate the expenses of funeral, burials, and related expenses that may also take the form of transportation of the deceased member to the country of F for burial. Upon the death of a member or a member of

his/her immediate family, that is, a husband, wife or child, the surviving family members receive \$ toward funeral expenses. If the member dies in country of F, the surviving family receives only \$ because burial expenses are lower in that country.

In addition, you own 38 burial plots located in the state of G. Each plot costs \$ each. A member may elect to use a plot and thereby reduce the cash payment made to the surviving family members to \$

There are only two criteria for a distribution. One is to be a member of your organization. The other is the death of a member or an immediate family member of a member. You have explained that the organization was formed when many persons related by common ancestry to one village in F arrived in the United States several years ago. The organization was formed to help members pay for funeral expenses. Financial hardship is not required nor are there any income restrictions or limitations to receiving the death benefits.

You are supported by membership fees. These annual fees range from \$ to \$. You have 270 members. No one receives compensation. Your only expenses are the death benefits paid to your members.

#### LAW:

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(2) of the Regulations states that the term "exempt purpose or purposes", means any purpose or purposes specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations states that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the Regulations states that an organization is not organized exclusively for one or more exempt purposes unless its asset are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, if upon dissolution, such assets would by reason of a provision in the organization's articles of organization or by operation of law, be distributed for one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities

which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Revenue Ruling 67-367, 1967-2 C.B. 188, describes an organization whose sole activity was the operation of a scholarship plan for making payments to pre-selected, specifically named individuals. The organization established a plan whereby it entered into agreements with subscribers. The subscribers deposited a certain amount of money with a designated bank. The subscriber also named a specific child to be the recipient of the scholarship money. The recipient received the scholarship around the time he or she were to begin college. The organization did not qualify for exemption under section 501(c)(3) of the Code because it was serving the private interests of its subscribers rather than serve public charitable and educational interests.

Revenue Ruling 69-175, 1969-1 C.B. 149, describes an organization which was formed by parents of pupils attending a private school. The organization provided bus transportation to and from the school for those children whose parents belong to the organization. The organization did not qualify for exemption under section 501(c)(3) of the Code because it served a private rather than public interest.

Revenue Ruling 79-359, 1979-2 C.B. 226, describes an organization which provided religious burial services that directly support and maintain its basic tenets and beliefs of a religion regarding burial of its members. The organization was formed by religious and lay leaders of a particular religion. In order to comply with the religious tenets, requirements regarding the preparation of the body must be followed and blessing, holding services over and interring the deceased were required. The organization qualified for exemption under section 501(c)(3) of the Code for exclusively religious purposes.

#### APPLICATION:

You are not organized exclusively for one or more exempt purposes. Your Articles of Incorporation states that your purpose is to offset the cost of burial and funeral expenses for members of the E religious community. Your Articles do not limit your purpose to one or more exempt purposes and it expressly empowers you to engage in activities which in themselves are not in furtherance of one or more exempt purposes. Therefore, you do not meet the organizational test described in Section 1.501(c)(3)-1(b)(1)(i) of the Regulations.

You are not operated exclusively for one or more exempt purposes because you are operated for the private benefit of your members rather than operating to provide a public benefit under section 501(c)(3) of the Code. In addition, the payment of death benefits is not a recognized exempt activity under section 501(c)(3) of the Code.

You are similar to the organization described in Revenue Ruling 67-367. Like that organization, your activities serve to benefit your members and their families rather than benefit the public. The organization in this revenue ruling made payments only to the designated individuals identified by the contributors. The death benefits you pay are limited to your members and their families. The payment of benefits to pre-selected, specifically named individuals served a private interest rather than a public interest as contemplated under section 501(c)(3) of the Code.

You are similar to the organization described in Revenue Ruling 69-175. You likewise were formed to provide benefits to your members. The group of parents provided a cooperative service for themselves and thus served their own private interests. In your case, you provide death benefits to members and their immediate families. The payment of these benefits serves private rather than a public interest.

You are distinguished from the organization described in Revenue Ruling 79-359. That organization was formed to further its religious beliefs regarding the burial of members of a particular religion. It performed religious burial services. The information you provided in your application and in your response indicate that you were not formed to carry out any religious burial services with regards to your deceased members. Your purpose is to pay death benefits, that is, pay money, to members or to relatives of the members' immediate family upon the death of a member or an immediate family member. The money is to be used to pay for expenses related to the burial of the deceased. You are not operated for religious purposes within the meaning of section 501(c)(3) of the Code.

#### CONCLUSION:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 and its applicable Income Tax Regulations. Based on the information submitted, we have concluded that you are not an organization described in section 501(c)(3) of the Code because you are not operated exclusively for one or more exempt purposes set forth in section 501(c)(3) of the Code.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. If you want representation during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at [www.irs.gov](http://www.irs.gov), Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to appeal as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848, and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service  
EO Determinations Quality Assurance  
Room 7-008  
P.O. Box 2508  
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Room 7-008  
Cincinnati, OH 45202

You may fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert Choi  
Director, Exempt Organizations  
Rulings & Agreements

Enclosure: Publication 892